# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/774,407 | 01/31/2001 | Stephen D. Flanagin | 13768.196 | 3841 |

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| EXAMINER |
|---|
| STRANGE, AARON N |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2153 | |

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | Applicant(s) |
| **Office Action Summary** | 09/774,407 | FLANAGIN, STEPHEN D. |
| | Examiner | Art Unit |
| | Aaron Strange | 2153 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on <u>19 September 2006</u>.

2a)☒ This action is **FINAL.**    2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) <u>1-4,6 and 8-39</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-4,6 and 8-39</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

### *Response to Arguments*

1.     Applicant's arguments with respect to claims 1-4,6 and 8-39 have been

considered but are moot in view of the new ground(s) of rejection.

### *Claim Objections*

2.     Claim 39 is objected to because of the following informalities:  There appears to

be a typographical error "infrastructure high capacity" in lines 2,5 and 7.  Appropriate

correction is required.

### *Claim Rejections - 35 USC § 112*

3.     The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.     Claims 1-11 and 39 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

5.     With regard to claim 1, the limitation "a method for the notification server to route

... the method comprising the wireless device performing" is unclear. All steps are

claimed as being performed by the wireless device, so it is unclear how the claim may

be a method for the notification server to do anything. Appropriate explanation or

amendment is required.

6.      With further regard to claim 1, the limitations "communicating with the wireless

device" and "receiving from the wireless device" in lines 6 and 9 are unclear. The

preamble states "the wireless device perform[ing]s" the steps. It is unclear how "the

wireless device" may communicate with or receive from itself. Based on the

specification, it appears that these steps are actually performed by a proxy server (at

least Page 15, Lines 19-24 of the present application). Applicant should amend the

claim to clarify which components of the system are performing each step in the

method.

7.      All claims not individually rejected are rejected by virtue of their dependency from

the above claims.

### Claim Rejections - 35 USC § 103

8.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.      Claims 1-3,6,8,10-15,17-27,29 and 31-38 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Wood et al. (US 6,449,722) in view of Fox et al. (US

6,654,786).


10.     With respect to claims 1 and 11, while it is unclear which elements are

performing each of the claimed steps (discussed above), as best understood by the

examiner, West discloses a method as claimed, comprising:

        an act of communicating with a wireless device over a low capacity channel

(wireless) and over which data is sent by default sent from a server to the wireless

device (at least Col 2, Lines 35-46);

        an act of receiving from the wireless device, via the low capacity channel

(address must be provided over the low capacity, authenticated channel in order to

receive the datum at that address over the unauthenticated channel) (at least Col 5,

Lines 32-37), an address of a network device (desktop docking station) (at least Col 3,

Lines 23-26) connected to a high capacity channel comprising the internet (Fig 1, 28),

the network device address sent from the wireless device over the low capacity channel

to indicate to the notification server (carrier) that the wireless device has connected with

the network device, such that notifications for the wireless device are to be routed to the

address of the network device over the high capacity channel comprising the internet

(virtual base station controller receives notification that the wireless device has

connected to an alternative connectivity and the connection is handed off) (at least Col

3, Lines 40-54);

an act of receiving notice that the wireless device has access to the high capacity

channel comprising the internet through the network device (at least Col 3, Lines 40-

54);

an act of temporarily rerouting notifications that are to be sent to the wireless

device over the low capacity channel to now be sent to the wireless device over the

high capacity channel and until it is at a later time determined that the wireless device

no longer has access to the high capacity channel and at which later time notifications

will resume being sent to the wireless device over the low capacity channel

(connections are handed off based on signal strength, and the alternative connection is

considered to have a very strong signal strength)(at least Col 3, Lines 45-52), wherein

the high capacity channel has an availability that is less than an availability of the low

capacity channel (high capacity channel is only available to docked device) and wherein

the temporarily rerouting data occurs whenever the second channel is available (docked

device will always be accessed via alternative connectivity) (at least Col 3, Lines 40-54).

However, West fails to specifically disclose that the wireless device receives

notifications from a notification server over the channels.

Fox discloses a similar system for communicating between a wireless device and

a server using multiple channels. Fox discloses routing notifications from a notification

server to the wireless devices over the appropriate network (Col 6, Lines 64-66; Col 8,

Lines 1-10; Col 13, Lines 39-47). This would have been an advantageous addition to

the system disclosed by West since it would have allowed the wireless devices to

receive notification of changes from web server subscriptions (Col 5, Lines 40-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to route notification from a notification server to the wireless devices in order to allow then to subscribe to web pages and be notified of changes to them.

11.     With regard to claim 2, West further discloses that the wireless device communicates with the network device (desktop) over a communication link (doscking station), and wherein the wireless device automatically connects with the network device (at least Col 3, Lines 23-26).

12.     With regard to claim 3, West further discloses that the network device is one of a desktop computer (at least Col 3, Lines 23-26), a blue tooth enabled LAN, and a kiosk.

13.     With regard to claim 6, West further discloses that the act of notifying the notification server comprises an act of sending an access notification to the notification server, wherein the access notification identifies that the high capacity channel is available for notifications sent to the wireless device (carrier is notified of new connectivity)(at least Col 3, Lines 40-43).

14.     With regard to claim 8, West further discloses an act of detecting that the wireless device no longer has access to the high capacity channel (connectivity changes are detected)(at least Col 4, Lines 45-51).

15.    With regard to claim 10, West further discloses notifying the notification server
over the low capacity channel that notifications can no longer be sent over the high
capacity channel (carrier is notified of connectivity changes)(at least Col 3, Lines 40-43).

16.    Claims 12-20 are rejected under the same rationale as claims 1-3,5-8,10 and 11,
since they recite substantially identical subject matter. Any differences between the
claims do not result in patentably distinct claims and all of the limitations are taught by
the above cited art.

17.    With regards to claim 21,25 and 26, West further discloses a proxy server (virtual
base station controller) that re-routes the notifications over the appropriate channel (at
least Col 3, Line 65 to Col 4, Line 6).

18.    With regard to claim 23 and 36, West further discloses that the act of providing
the wireless device with access to the high capacity channel further comprises an act of
connecting the wireless device at a docking station, the docking station having a
communication link with the network device that provides the wireless device with
access to the high capacity channel through the network device (at least Col 3, Lines
23-26).

19.     Claims 22,24,27,29,31-33 and 35 are rejected under the same rationale as

claims 1-3,5-8,10 and 11, since they recite substantially identical subject matter. Any

differences between the claims do not result in patentably distinct claims and all of the

limitations are taught by the above cited art.


20.     With regard to claim 37, West further discloses that it is more costly to use the

low capacity channel than the high capacity channel  (at least Col 2, Lines 63-66).


21.     With regard to claim 38, West further discloses that the low capacity channel is

substantially always available for notifications to be sent to the wireless device (wireless

connections are available whenever the wireless device is in the coverage area) (at

least Col 1, Lines 11-26 and Col 2, Lines 35-43).


22.     With regard to claim 39, West further discloses that the notification server is

external to the infrastructure of the low capacity channel and external to the

infrastructure high capacity channel (carrier is external to the wireless device -> virtual

base station controller connection) (Fig 1) and wherein the notification server is further

configured to send application data notifications to the wireless device over the

infrastructure of the low capacity channel and the infrastructure high capacity channel

when the notification server is notified how to communicate with the wireless device

over the infrastructure of the low capacity channel or over the infrastructure of the high

capacity channel (the carrier is notified of the connectivity of the wireless device)(at least Col 3, 40-43).

23.    Claims 4 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (US 6,449,722) in view of Fox et al. (US 6,654,786) in further view of West et al. (US 6,449,722).

24.    With regard to claims 4 and 28, while the system disclosed by West and Fox shows substantial features of the claimed invention (discussed above), it fails to specifically disclose that the communication link between the wireless device and the network device is one of a serial link, a USB link, a wireless Bluetooth link, and an infrared link.

       The Examiner takes Official Notice that it was old and well known in the art at the time the invention was made to connect a wireless device to a desktop computer using a serial, USB, Bluetooth, or infrared link. Each of these connection types were well known means of connecting a wireless device to a network device such as a desktop computer and selection of a particular one would have merely been a matter of personal preference to the system designer.

       Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow docking of the wireless device using any known connection protocol in order to provide the devices with access to the Internet via wired networks.

25.    Claims 9,16 and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over

Wood et al. (US 6,449,722) in view of Fox et al. (US 6,654,786) in further view of

Hibbard (US 2001/0056503).


26.    With regard to claims 9,16 and 30, while the system disclosed by West and Fox

shows substantial features of the claimed invention (discussed above), it fails to

disclose determining that the wireless device no longer has access to the high capacity

channel if the notification server does not receive an acknowledgement to a notification

within a predetermined period.

Hibbard teaches determining that a connection has failed if an acknowledgment

has not been received within a predetermined time period, and subsequently connecting

on a secondary connection (¶26). This would have been an advantageous addition to

the system disclosed by West and Fox since it would have allowed the server to

determine if a connection has failed without waiting for information from the wireless

device.

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to determine that the high capacity channel is no longer

available if the notification server does not receive an acknowledgement to a notification

within a predetermined period.

### *Conclusion*

27.     **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

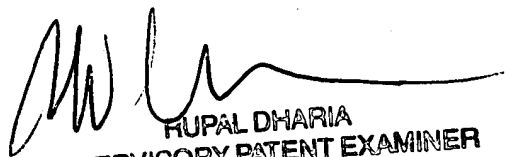than SIX MONTHS from the mailing date of this final action.


28.     Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Aaron Strange whose telephone number is 571-272-

3959.  The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Glen Burgess can be reached on 571-272-3949.  The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system.  Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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12/1/06


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SUPERVISORY PATENT EXAMINER